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Report of the International Law Commission on the work of its fifty-fifth session

Report of the Sixth Committee

Rapporteur: Mr. Metod **Špaček** (Slovakia)

I. Introduction

1. The item entitled "Report of the International Law Commission on the work of its fifty-fifth session" was included in the provisional agenda of the fifty-eighth session of the General Assembly pursuant to Assembly resolution 57/21 of 19 November 2002.

2. At its 2nd plenary meeting, on 19 September 2003, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 14th to 21st and 23rd meetings, from 27 to 31 October and on 3, 4 and 6 November 2003. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/58/SR.14-21 and 23).

4. For its consideration of the item, the Committee had before it the report of the International Law Commission on the work of its fifty-fifth session.[1]

5. The Chairman of the International Law Commission at its fifty-fifth session introduced the report of the Commission: chapters I to IV and XI at the 14th meeting, on 27 October; chapters V and VI at the 16th meeting, on 29 October; chapters VII and VIII at the 18th meeting, on 30 October; and chapters IX and X at the 20th meeting, on 3 November (see A/C.6/58/SR.14, 16, 18 and 20).

[1] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 10* (A/58/10).

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II. Consideration of draft resolution A/C.6/58/L.25

6. At the 23rd meeting, on 6 November, the representative of Trinidad and Tobago, on behalf of the Bureau, introduced a draft resolution entitled "Report of the International Law Commission on the work of its fifty-fifth session" (A/C.6/58/L.25).

7. At the same meeting, the Committee adopted draft resolution A/C.6/58/L.25 without a vote (see para. 8).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the International Law Commission on the work of its fifty-fifth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its fifty-fifth session,[1]

Emphasizing the importance of furthering the codification and progressive development of international law as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission to enhance further their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Welcoming the holding of the International Law Seminar, and noting with appreciation the voluntary contributions made to the United Nations Trust Fund for the International Law Seminar,

Stressing the usefulness of focusing and structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report and for discussions on specific topics,

Wishing to enhance further, as proposed at the fifty-eighth session of the General Assembly by the Austrian-Swedish initiative to revitalize the debate on the report of the International Law Commission, the interaction between the Sixth Committee as a body of governmental representatives and the Commission as a body of independent legal experts, with a view to improving the dialogue between the two bodies,

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[1] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 10* (A/58/10).

[2] Resolution 2625 (XXV), annex.

1. *Takes note with appreciation* of the report of the International Law Commission on the work of its fifty-fifth session,[1] and recommends that the Commission continue its work on the topics in its current programme, taking into account the comments and observations of Governments, whether submitted in writing or expressed orally in debates in the General Assembly;

2. *Draws the attention* of Governments to the importance for the International Law Commission of having their views on the various aspects involved in the topics on the agenda of the Commission, in particular on all the specific issues identified in chapter III of its report;

3. *Reiterates its invitation* to Governments, within the context of paragraph 2 above, to provide information to the International Law Commission regarding State practice on the topic "Unilateral acts of States";

4. *Invites* Governments, within the context of paragraph 2 above, to provide information to the International Law Commission regarding national legislation, bilateral and other agreements and arrangements with regard to the use and management of transboundary groundwaters, in particular those governing quality and quantity of such waters, relevant to the topic currently entitled "Shared natural resources";

5. *Requests* the Secretary-General to invite States and international organizations to submit information concerning their practice relevant to the topic "Responsibility of international organizations", including cases in which States members of an international organization may be regarded as responsible for acts of the organization;

6. *Invites* the International Law Commission to continue taking measures to enhance its efficiency and productivity;

7. *Encourages* the International Law Commission to continue taking cost-saving measures at its future sessions;

8. *Takes note* of paragraph 448 of the report of the International Law Commission, and decides that the next session of the Commission shall be held at the United Nations Office at Geneva from 3 May to 4 June and from 5 July to 6 August 2004;

9. *Welcomes* the enhanced dialogue between the International Law Commission and the Sixth Committee at the fifty-eighth session of the General Assembly, stresses the desirability of further enhancing the dialogue between the two bodies, and in this context encourages, inter alia, the continued practice of informal consultations in the form of discussions between the members of the Sixth Committee and the members of the Commission attending the fifty-ninth session of the Assembly;

10. *Encourages* delegations, during the debate on the report of the International Law Commission to adhere as far as possible to the structured work programme agreed to by the Sixth Committee and to consider presenting concise and focused statements;

11. *Encourages* Member States to consider being represented at the level of legal adviser during the first week in which the report of the International Law Commission is discussed in the Sixth Committee to enable high-level discussions on

issues of international law, and decides that the week shall henceforth be known as "International Law Week";

12. *Requests* the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, any specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

13. *Takes note* of paragraphs 449 to 455 of the report of the International Law Commission with regard to cooperation with other bodies, and encourages the Commission to continue the implementation of article 16, paragraph (e), and article 26, paragraphs 1 and 2, of its statute in order to further strengthen cooperation between the Commission and other bodies concerned with international law, having in mind the usefulness of such cooperation;

14. *Notes* that consulting with national organizations and individual experts concerned with international law may assist Governments in considering whether to make comments and observations on drafts submitted by the International Law Commission and in formulating their comments and observations;

15. *Reaffirms* its previous decisions concerning the indispensable role of the Codification Division of the Office of Legal Affairs of the Secretariat in providing assistance to the International Law Commission;

16. *Approves* the conclusions reached by the International Law Commission in paragraphs 440 to 443 of its report regarding documentation of the Commission, and reaffirms its previous decisions concerning the summary records of the International Law Commission;[3]

17. *Expresses the hope* that the International Law Seminar will continue to be held in connection with the sessions of the International Law Commission and that an increasing number of participants, in particular from developing countries, will be given the opportunity to attend the Seminar, and appeals to States to continue to make urgently needed voluntary contributions to the United Nations Trust Fund for the International Law Seminar;

18. *Requests* the Secretary-General to provide the International Law Seminar with adequate services, including interpretation, as required, and encourages him to continue considering ways to improve the structure and content of the Seminar;

19. *Also requests* the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fifty-eighth session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

20. *Requests* the Secretariat to circulate to States, as soon as possible after the conclusion of the session of the International Law Commission, chapter II of its report containing a summary of the work of that session, chapter III containing the specific issues on which the views of Governments would be of particular interest to

[3] See resolutions 32/151, para. 10, and 37/111, para. 5, and all subsequent resolutions on the annual reports of the International Law Commission to the General Assembly.

the Commission and the draft articles adopted on either first or second reading by the Commission;

21. *Recommends* that the debate on the report of the International Law Commission at the fifty-ninth session of the General Assembly commence on 1 November 2004.

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Report of the Committee on Relations with the Host Country

Report of the Sixth Committee

Rapporteur: Mr. Metod **Špaček** (Slovakia)

I. Introduction

1. The item entitled "Report of the Committee on Relations with the Host Country" was included in the provisional agenda of the fifty-eighth session of the General Assembly pursuant to Assembly resolution 57/22 of 19 November 2002.

2. At its 2nd plenary meeting, on 19 September 2003, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 22nd meeting, on 5 November 2003. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary record (A/C.6/58/SR.22).

4. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Committee on Relations with the Host Country;[1]

(b) Letter dated 19 May 2003 from the Permanent Representative of Cuba to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country, requesting the official circulation of the declaration of the Ministry of Foreign Affairs of Cuba, dated 13 May 2003 (A/AC.154/360);

(c) Letter dated 3 October 2003 from the representative of the Russian Federation to the United Nations addressed to the Chairman of the Committee on Relations with the Host Country, requesting circulation of a document on the

[1] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 26* (A/58/26).

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operations of the Parking Programme for Diplomatic Vehicles as a document of the Committee on Relations with the Host Country (A/AC.154/361).

5. At the 22nd meeting, on 5 November, the Chairman of the Committee on Relations with the Host Country introduced the report of that Committee (see A/C.6/58/SR.22).

II. Consideration of draft resolution A/C.6/58/L.23

6. At the 22nd meeting, on 5 November, the representative of Cyprus, on behalf of Bulgaria, Canada, Costa Rica, Côte d'Ivoire and Cyprus, subsequently joined by Spain, introduced a draft resolution entitled "Report of the Committee on Relations with the Host Country" (A/C.6/58/L.23).

7. At the same meeting, the Committee adopted draft resolution A/C.6/58/L.23 without a vote (see para. 8).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the Committee on Relations with the Host Country

The General Assembly,

Having considered the report of the Committee on Relations with the Host Country,[1]

Recalling Article 105 of the Charter of the United Nations, the Convention on the Privileges and Immunities of the United Nations,[2] the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations[3] and the responsibilities of the host country,

Recalling also that, in accordance with paragraph 7 of General Assembly resolution 2819 (XXVI) of 15 December 1971, the Committee should consider, and advise the host country on, issues arising in connection with the implementation of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,

Recalling further its resolution 43/172 of 9 December 1988, in which it stressed the importance of a positive perception of the work of the United Nations, and urged that efforts be continued to build up public awareness by explaining, through all available means, the importance of the role played by the United Nations and the missions accredited to it in the strengthening of international peace and security,

Recognizing that effective measures should continue to be taken by the competent authorities of the host country, in particular to prevent any acts violating the security of missions and the safety of their personnel,

1. *Endorses* the recommendations and conclusions of the Committee on Relations with the Host Country contained in paragraph 52 of its report;[1]

2. *Considers* that the maintenance of appropriate conditions for the normal work of the delegations and the missions accredited to the United Nations and the observance of their privileges and immunities, which is an issue of great importance, are in the interest of the United Nations and all Member States, and requests the host country to continue to solve, through negotiations, problems that might arise and to take all measures necessary to prevent any interference with the functioning of missions;

3. *Welcomes* the decision of the Committee to conduct a detailed review of the implementation of the Parking Programme for Diplomatic Vehicles,[4] as recommended by the Legal Counsel in his opinion on 24 September 2002,[5] with a

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[1] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 26* (A/58/26).
[2] Resolution 22 A (I).
[3] See resolution 169 (II).
[4] A/AC.154/355, annex.
[5] A/AC.154/358, annex.

view to addressing the problems experienced by some permanent missions during the first year of the Programme, and ensuring its proper implementation in a manner that is fair, non-discriminatory, effective and consistent with international law;

4. *Expresses its appreciation* for the efforts made by the host country, and hopes that the issues raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law;

5. *Notes* that during the reporting period the travel controls previously imposed by the host country on staff of certain missions and staff members of the Secretariat of certain nationalities remained in effect, and requests the host country to consider removing such travel controls, and in this regard notes the positions of affected States, of the Secretary-General and of the host country;

6. *Notes also* that the Committee anticipates that the host country will continue to ensure the issuance, in a timely manner, of entry visas to representatives of Member States, pursuant to article IV, section 11, of the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations,[3] inter alia, for the purpose of their attending official United Nations meetings;

7. *Requests* the Secretary-General to remain actively engaged in all aspects of the relations of the United Nations with the host country;

8. *Requests* the Committee to continue its work in conformity with General Assembly resolution 2819 (XXVI);

9. *Decides* to include in the provisional agenda of its fifty-ninth session the item entitled "Report of the Committee on Relations with the Host Country".